IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4100 OF 2005

Surendra Bhimsshi Gangar & others. ... Applicants.

Versus.

State of Maharashtra & another. ... Respondents.

Shri Ganesh Gole for the Applicant.

Ms.M.H.Mhatre, A.P.P. for the Respondent no.1-State.

Shri A.K.Boily for the Respondent No.2.

CORAM : ABHAY S. OKA, J.

DATED : 14th July, 2005.

P.C.:

1. Rule. The learned Counsel for the Respondent No.2 waives service. The learned A.P.P. waives service for State. By consent taken up for hearing forthwith.

2. The prayer in this Application is for quashing C.R.No.124 of 2005 registered at Bhoiwada Police Station at the instance of the Respondent No.2. The offence is registered under the provisions of section 3 of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989. In the Application it is stated that there is an overall settlement between the parties. The learned Counsel appearing for the Respondent No.2 has tendered on record an affidavit of the Respondent No.2 which is marked as "X" for identification. In the said affidavit and in particular in paragraphs 4 and 5, the Respondent No.2 has stated thus:

4. With reference to paras 3 to 5 of the said petition, it is true that due to sudden intervention of well wishers, had started pursuing the matter through negotiations by and between the parties for settlement and inconsequence the Applicants agreed to withdraw their case registered under C.R.No.121 of 2005 lodged through their employee Neetha Dedia who also ensured that the said complaint be withdrawn, falsely filed against the Respondent No.2 and his two sons, so that both the parties herein should not pursue their respective complaints filed against each other to enable them to settle the matter by and between the parties by mutually and finally in the interest of justice. The rest of the allegations are denied in toto.

5. With reference to para 6-A to 6-H of the petition, i say that though it is agreed to be withdrawn the said my complaint only as against the withdrawal of case registered under C.R.No.121 of 2005 by the Applicants against the Respondent No.2 as ensured, else the rights of the Respondent

No.2 may be prejudice, so that purpose of the both the parties as intended for settlement may not be defeated."

The learned Counsel for the Applicant has tendered on record affidavit of one Neeta Dedhia, who has lodged C.R.No.121 of 2005 against the Respondent No.2. The said affidavit is marked "Y" for identification. In the said affidavit the said Neeta Dedhia has stated that she has decided not to pursue the complaint registered by her against the Respondent No.2 in view of the settlement between the parties.

3. The learned Counsel appearing for the Respondent No.2 states that the Respondent No.2 is personally present in Court and the Respondent No.2 has no objection if C.R.No.124 of 2005 filed at his instance is quashed and set aside. Reliance is placed on a decision of this Court reported in 2004 All M.R. (Cri) page 111 (Mansur A.Khan v/s. State of Maharashtra & ors.) and submitted that the F.I.R. registered under the said Act of 1989 can be quashed by this Court.

4. In view of the affidavits which are filed on record and in view of the settlement between the parties, no useful purpose will be served by allowing prosecution based on the said C.R. to continue. Considering the affidavit of the Respondent No.2 and the statement made

by the Respondent No.2 through his Counsel, there is no possibility of conviction in the prosecution if it is continued. Accordingly this application deserves to be allowed.

5. Accordingly the following order is passed:

(i) F.I.R.registered under C.R.No.124 of 2005 at Bhoiwada Police Station is quashed and set aside. In view of the quashing of the F.I.R. the Applicant stand discharged.

(ii) Parties to act on an authenticated copy of this order.

Judge.